IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 04.07.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.380 of 2006

Abuthakheer @ Abu @ Sullan @
Suttippu Sullan ... Petitioner

Vs.

1.The State of Tamil Nadu, rep. by its
Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The Commissioner of Police,
Detaining Authority,
Coimbatore City,
Coimbatore. .. Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the entire records leading to the detention of the petitioner by name Abuthakheer @ Abu @ Sullan @Suttippu Sullan, son of Sulaiman under Act 14 of 1982 vide detention order dated 08.10.2005 on the file of the second respondent herein, made in proceedings No.C.No.29/G/IS/2005, set aside the same and direct the second respondent herein to produce the body of the detenu, now confined in Central Prison, Coimbatore before this Court and set him at liberty.

For Petitioner : Mr.C.C.Chellappan for
Mr.M.N.Balakrishnan
For Respondents : Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P.SATHASIVAM,J.)

The petitioner by name Abuthakheer @ Abu @ Sullan @ Suttippu Sullan, who is detained as a ''Goonda" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 08.10.2005, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there was delay in passing the detention order and on this ground the same is liable to be quashed. While elaborating the above contention the learned counsel has pointed out that according to the respondents, the ground case took place on 12.08.2005 whereas the detention order was passed only on 08.10.2005. By pointing out the time taken by the detaining authority viz., 55 days from the date of ground occurrence, the learned counsel has submitted that without proper explanation the delay cannot be accepted and on that ground, the detention order passed by the detaining authority has to be set aside.

4. As against the said contention, the learned Additional Public Prosecutor has pointed out that apart from the ground case, the detenu was involved in six other cases out of which first five cases ended in conviction and the sixth adverse case is still pending trial before the Judicial Magistrate No.II, Coimbatore in C.C.No.953 of 2005. He further pointed out that in order to get the required details with reference to the six adverse cases and the ground case, the sponsoring authority had taken reasonable time and after forwarding all the materials, the detaining authority has passed the detention order on 08.10.2005. He has also brought to our notice that even in the requisition for remand, the sponsoring authority has mentioned that he has to collect the details regarding adverse cases numbering six and the finger print of the accused/detenu has to be forwarded to the Finger Print Expert at Coimbatore, and he has to get the report from him, he sought for extension of remand for a period of 15 days, which is available at pages 15 and 16 of the paper book supplied to the detenu. Again on 25.08.2005 the sponsoring authority has sought for extension of remand for a further period of 15 days. On 22.09.2005, the sponsoring authority by stating that the investigation is yet to be completed and the report from the Finger Print Expert has not been received so far, prayed for further extension for a period of 15 days. The said requisition is available at page 27 of the paper book supplied to the detenu. Based on the same, the Judicial Magistrate No.II, Coimbatore, has extended the remand of the detenu till 06.12.2005. The above furnished details, which are available in the paper book, amply show that there was no let up at any stage and no

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undue delay as claimed by the learned counsel for the petitioner. Though in para 10 of the counter affidavit, the Commissioner of Police, Coimbatore, has merely stated that the delay was due to collection of relevant records pertaining to the detenu, in view of the materials available in the paper book, we accept the explanation offered by the learned Additional Public Prosecutor and reject the claim made by the counsel for the petitioner.

5. The learned counsel for the petitioner has submitted that the detention was not intimated to his family members. On the other hand, the learned Additional Public prosecutor has informed us that the detention order was intimated to the mother of the detenu on 10.10.2005 and since she refused to receive the same, the intimation was affixed on the door of the house, which was attested by the Village Administrative officer concerned. Accordingly, we reject the said contention also.

6. In the light of what is stated above, we do not find any valid ground for interference. Accordingly, the Habeas Corpus Petition fails and the same is dismissed.

raa

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to Government,
State of Tamil Nadu, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.

2.The Commissioner of Police, Coimbatore City, Coimbatore.

3. The Superintendent, Central Prison, Coimbatore.

4. The Joint Secretary to Government,
Public (Law and Order),Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

1 cc To Mr.M.Balakrishnan, Advocate, SR.28834.

HCP. No.380 of 2006

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RVL 14.07.2006

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